

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AARON J. RAMBO,
Petitioner,

v.

**DAVID WINN, as Warden of FMC Devens,
and
JOHN ASHCROFT, as Attorney General of
the United States,**
Respondents.

Civ. No. _____

RECEIPT # _____

AMOUNT \$ 5 ~~100~~

SUMMONS ISSUED X

LOCAL RULE 4.1 _____

WAIVER FORM _____

MCF ISSUED _____

BY DPTY. CLK. 13

DATE 12-21-04

MAGISTRATE JUDGE Boule

VERIFIED COMPLIANT
AND PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 USC §2241.

Now comes the Petitioner, Aaron Rambo, and brings this petition for writ of *habeas corpus* and complaint for declaratory and injunctive relief under the United States Constitution and the Administrative Procedure Act, saying:

INTRODUCTION

1. The Petitioner, Aaron Rambo is a federal prisoner, incarcerated at FMC Devens, whose statutory and due process rights are being violated by the Bureau of Prisons' misinterpretation of 18 U.S.C. §3624(b), depriving him of eligibility for 54 days of good conduct time (GCT) credit for each year of his term of imprisonment to which he is statutorily entitled.

2. The Petitioner's statutory and due process rights are further being violated by the Bureau of Prisons' misinterpretation of 18 USC §3621(b), denying him eligibility to serve the last six months of his sentence at a Community Correction Center (CCC).

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. §2241, in that the

Petitioner's term in federal custody is being determined in violation of the Constitution and laws of the United States.

4. The Petitioner invokes the jurisdiction of this Court pursuant to 28 U.S.C. §1331, in that the action arises out of the Constitution and laws of the United States and seeks corrective action by officers and employees of the United States in their official capacity.

5. The Petitioner further invokes the jurisdiction of this Court pursuant to 28 U.S.C. §1343(4), in that the Petitioner seeks to redress deprivation of rights guaranteed by both the Constitution and federal statutes.

6. Venue is proper in this District pursuant to 28 USC §1391(e), in that the Petitioner is incarcerated at a federal institution located in the District of Massachusetts.

PARTIES

7. Aaron Rambo is a federal prisoner presently confined at FMC Devens, located in Ayer, Massachusetts, pursuant to the judgment of the United States District Court for the District of Ohio, in Akron.

8. David Winn is the Warden of FMC Devens, and through the Bureau of Prisons (BOP), an agency of the United States Department of Justice, is responsible for the Petitioner's custody and calculation of his term of confinement. On information and belief, Defendant Winn is a resident of the Commonwealth of Massachusetts.

9. John Ashcroft is the Attorney General of the United States and the Chief Executive Officer of the Department of Justice. The *Respondent* Ashcroft frequently delegates his powers to senior officials of the DOJ and the BOP. On information and belief, *Respondent* Ashcroft is a resident of the District of

Columbia.

COUNT I

10. On July 22, 2003, the Petitioner was arrested and charged in the Northern District of Ohio, Eastern Division (Akron), with violations of 18 USC §§1470 and 2422(b). A three count indictment was returned on August 19, 2003, *United States v. Aaron Rambo*, No. 5:03-cr- 00342-PAG. (Copies of the docket report and the indictment are included in the accompanying Appendix, as Exhibits A and B respectively.)

11. On October 29, 2003, the Petitioner pleaded guilty to Count One of the indictment, charging violation 18 USC §2422(b), pursuant to a plea agreement which provided for the dismissal of Counts Two and Three.

12. On February 17, 2004, the Honorable Patricia A. Gaughan, sentenced the Petitioner upon his conviction for violation of 18 USC §2422(b), to a term of imprisonment of 27 months with 3 years supervised release. Counts Two and Three were dismissed.

13. The Petitioner has been in custody in connection with this offense since July 22, 2003.

14. 18 U.S.C. §3624(b) provides in part that, "a prisoner who is serving a term of imprisonment of more than 1 year ... may receive credit toward the service of the prisoner's sentence ... of up to 54 days at the end of each year of the prisoner's term of imprisonment....[C]redit for the last year or portion of a year shall be prorated and credited within the last six weeks of the sentence."

15. Applying this statutory formula, the Petitioner is entitled to 54 days GCT for the first year of his sentence, 54 days for the second year of his sentence, and 13 days for the final 3 months of his sentence, for a total presumptive GCT

award of 121 days.

16. Contrary to statute, but pursuant to its Program Statement 5880.28, the BOP allows a maximum GCT of 47 days at the end of each year rather than the statutory mandate 54 days. This is accomplished by the BOP basing its calculations on the actual time in prison, *after* the presumptive 54 days GCT has already been deducted, rather than on the length of the sentence actually imposed. (See, BOP Program Statement 5880.28, pp. 1-40 through 1-62, available at <http://www.bop.gov>, Exhibit C.)

17. Contrary to statute, the BOP has calculated the Petitioner's sentence to reflect a potential award of 105 days of GCT, rather than 121 days. (See, Inmate Progress Report, dated June 5, 2004, Exhibit D.)

18. On or about June 15, 2004, the Petitioner submitted an Inmate Request to Staff form to the ISM department, complaining that his GCT had been incorrectly calculated, and requesting that GCT be correctly calculated at the statutory rate of 54 days per year. In response, the Petitioner was informed "Your good conduct time was correctly calculated." (See, Inmate Request to Staff, dated 6/15/04, Exhibit F.)

19. On or about June 17, 2004, the Petitioner submitted a further Inmate Request to Staff form to his Unit Team Counselor, again complaining that he his GCT has been incorrectly calculated, and requesting that GCT be correctly calculated at the statutory rate of 54 days per year. In response, the Petitioner was told, "You will need to speak to someone from the ISM Department." (See, Inmate Request Form, dated 6/17/04, Exhibit G.)

20. On or about July 7, 2004, the Petitioner submitted a form, so-called BP 8 1/2, requesting informal resolution of his complaint that his GCT had been

incorrectly calculated, with the request that GCT be correctly calculated at the statutory rate of 54 days per year. In response, the Petitioner was advised, "Upon review of your complain it has been determined that your complaint cannot be informally resolved. Therefore, you must submit a BP 9 to get an administrative remedy response." (See, Request for Informal Resolution, dated 7/7/04, Exhibit H.)

21. On or about July 14, 2004, the Petitioner submitted a Request for Administrative Remedy, so-called BP 9, requesting administrative relief for his complaint that GCT has been incorrectly calculated, and requesting that GCT be correctly calculated at the statutory rate of 54 days per year. (See, Request for Administrative Remedy, dated 7/14/04, Exhibit I.)

22. On or about July 30, 2004, *Respondent* David Winn denied the remedy, stating that, "The Bureau has interpreted section 3624(b) to permit the Bureau to award GCT only for time actually served rather than on the time imposed." (See, Response to Request for Administrative Remedy #344551-F1, dated 7/30/04, Exhibit J.)

23. On or about August 10, 2004, the Petitioner submitted a Request for Administrative Appeal, so-called BP 10, requesting administrative review of the denial of his complaint that GCT has been incorrectly calculated. (See, Request for Administrative Appeal, dated 8/10/04, Exhibit K.)

24. On or about September 13, 2004, D. Scott Dodrill, Regional Director of the BOP denied the appeal, stating in part that §3624(b) "requires credit after the actual service of a year," and that "the institution correctly determined your eligibility for GCT." (See, Part B-Response, dated 9/13/04, Exhibit L.)

25. On or about September 17, 2004, the Petitioner submitted a Central

Office Administrative Remedy Appeal, so-called BP 11, requesting final administrative review of his complaint that GCT has been incorrectly calculated. (See, Central Office Administrative Remedy Appeal, dated 9/17/04, Exhibit M.)

26. On or about December 7, 2004, the Petitioner received notice that Central Office Administrative Appeal had been denied on November 19, 2004. (See, Administrative Remedy Generalized Retrieval, dated 12/7/04, Exhibit N.) Thereafter, the Petitioner received the letter of denial dated November 19, 2004, issued by Harrell Watts, Administrator of National Inmate Appeals. (*Id.*)

27. The Petitioner has exhausted his administrative remedies.

28. Notwithstanding the Petitioner's efforts to resolve this matter administratively, exhaustion of administrative remedies is not a requirement for the prosecution of this action.

29. The action of the BOP in denying the Petitioner the full 54 days per year good time credit is in violation of his statutory rights, secured by 18 USC §3624(b).

30. The action of the BOP in denying the Petitioner the full 54 days per year good time credit is in violation of his right to due process of law, secured by the Due Process Clause of the Fifth Amendment.

COUNT II

31. Paragraphs 1-30 are incorporated herein by reference.

32. 18 USC §3621(b) provides in part that, "The Bureau of Prisons shall designate the place of the prisoner's imprisonment. The Bureau may designate any available penal or correctional facility that meets minimum standards of health and habitability established by the Bureau...."

33. The Bureau of Prisons and the Department of Justice agree that a

Community Correction Center (CCC) is a “penal or correctional facility” within the meaning of 18 USC §3621(b). (See, BOP Program Statement 7310.04, p. 4, available at <http://www.bop.gov>, Exhibit O; and DOJ Office of Legal Counsel Opinion, dated 3/25/92, p. 7, available at <http://www.usdoj.gov/olc/quinlan.15.htm>, Exhibit P.)

34. On information and belief, prior to approximately December 20, 2002, the BOP had a long-standing and well established practice of designating federal prisoners to CCCs for the service of the last six months of their sentences.

35. On December 13, 2002, the Department of Justice, Office of Legal Counsel (OLC) issued a Memorandum opining that the BOP lacked discretionary authority, conferred by statute, to designate prisoners to serve all or part of their sentences at a CCC. The OLC further opined that the authority to transfer any prisoner to a CCC was limited in duration by 18 USC §3624(c) to the last 10% of the sentence, not to exceed six months. (See, Memorandum Opinion, dated 12/13/02, available at <http://www.usdoj.gov/olc/bopimprisonment2.htm>, Exhibit Q.)

36. On December 16, 2002, the Deputy Attorney General issued a Memorandum to the Director of the BOP instructing that based on the recent opinion of the Office of Legal Counsel, the BOP must take steps to stop its “unlawful” reading the term “imprisonment” as used in 18 USC §3621 to include placement in a CCC, and its “unlawful” policy of placing “low-risk, non-violent offenders with short terms of imprisonment in a community corrections center.” (See, Memorandum of the Deputy Attorney General, dated, 12/16/02, available at <http://www.usdoj.gov:80/04foia/readingrooms/imprisonment.htm>, Exhibit R.)

37. On December 20, 2002, the Director of the BOP issued a Memorandum to Federal Judges, announcing that in accordance with recent directives from the DOJ Office of Legal Counsel, it was announcing a significant procedure change according to which the BOP would no longer use CCCs as a "substitute" for imprisonment. (See, Memorandum for Federal Judges, dated 12/20/02, available at http://www.bop.gov/ogcpg/ogcdirector_notice.pdf, Exhibit S.)

38. The policy of the Bureau of Prisons, limiting a prisoner's eligibility for transfer to a CCC constitutes a rule within the meaning of the Administrative Procedures Act (APA), 5 USC §553, *et seq.*

39. This rule adopted by the BOP was adopted in violation of the notice and comment provisions of the APA.

40. In the absence of this procedure change incorporated in the new rule, the Petitioner would have been considered eligible for designation to a CCC on or about January 18, 2005, or six months prior his projected good conduct release date of June 18, 2005.

41. In contravention of the BOP's prior policy, and in derogation of its discretionary authority to designate prisoners to any appropriate correctional facility, the Petitioner's eligibility to serve any portion of his sentence at a CCC has been limited to 10% of his total sentence, or 2.7 months, pursuant to 18 USC §3624(c), resulting in a placement date of April 25, 2005. (See, Ex. E, ¶17.)

42. On or about June 17, 2004, the Petitioner submitted an Inmate Request to Staff form to his Unit Team Counselor complaining of the invalidity of the process by which the BOP changed its policy to one limiting eligibility for a transfer to a CCC to the last 10% of a sentence, and requesting that he be

permitted to serve the last six months of his sentence at a CCC. In response, the Petitioner was told, "You will need to speak to someone from the ISM Department." (See, Inmate Request Form, dated 6/17/04, Exhibit F.)

43. On or about June 24, 2004, the Petitioner submitted a further Inmate Request form to the ISM Department, complaining of the procedure whereby the 10% limitation was adopted, and requesting transfer to a CCC for the final six months of the sentence, rather than for the final 2.7 months, or 10%, of the sentence. In response, the Petitioner was advised to, "See your Unit Team for a response." (See, Inmate Request Form, dated 6/24/04, Exhibit T.)

44. On or about July 8, 2004, the Petitioner submitted a form, so-called BP 8 1/2, seeking informal resolution of his complaint that the time during which he might serve his sentence at a CCC should not be limited to 10% of his sentence, or 2.7 months; and requesting transfer to a CCC 6 months six months prior to his release date. In response, the Petitioner was advised, "Upon review of your complaint it has been determined that pre-release programming CCC designations are limited in duration to the last 10% of the prison sentence, not to exceed 6 months. This limitation applies to all U.S. Code and D.C. Code offenders whose prisons sentences are administered by the Bureau of Prisons." (See, Request for Informal Resolution, dated 7/8/04, Ex. U.)

45. On or about July 14, 2004, the Petitioner submitted a so-called BP 9 requesting administrative relief for his complaint that the 10% policy had been declared invalid and requesting that he be permitted to serve the last six months at a CCC, rather than be limited to 2.7 months, or 10% of his sentence. (See, Request for Administrative Review, dated 7/14/04, Exhibit V.) On August 2, 2004, the Petitioner was advised to refile the request. (*Id.*)

46. On or about August 11, 2004, the Petitioner refiled the so called BP 9, again requesting correction of the error with respect to his consideration for a CCC. (See, Request for Administrative Remedy, dated 8/11/04, Exhibit W.)

47. On or about August 26, 2004, *Respondent* David Winn responded, denying the request, stating "the 2.7 months to be served at a Community Corrections Center is justified according to the '10 percent' policy." (See, Response to Request for Administrative Remedy #347723-F1, dated 8/26/04, Exhibit X.)

48. On September 3, 2004, during the pendency of the administrative process, the Court of Appeals for the First Circuit decided *Goldings v. Winn*, 383 F. 3d 17 (1st Cir., 2004), holding that 18 U.S.C. §3621(b) grants the BOP discretion to designate a prisoner to serve any part of his sentence at a CCC.

49. On October 6, 2004, the Petitioner submitted a Central Office Administrative Remedy Appeal, so-called BP 11, requesting final administrative review of his complaint that, pursuant to an invalid BOP policy, he had been denied access to a CCC for any period greater than the last 10% of his sentence. (See, Central Office Administrative Remedy Appeal, dated 10/6/04, Exhibit Y.)

50. On or about December 3, 2004, Harrell Watts, Administrator of National Inmate Appeals, denied the appeal, relying on the discredited opinion of the Office for Legal Counsel of December 13, 2002, which interprets §3624(c) as limiting "the transfer of an inmate to a CCC to the last 10% of an inmate's prison term, not to exceed six months." (See, Administrative Remedy Response No. 347723-A1, Ex. Z.)

51. Notwithstanding the Petitioner's efforts to resolve this matter administratively, exhaustion is not a requirement for the prosecution of this

action

52. Notwithstanding *Goldings*, the BOP has persisted in its illegal application of §3621(b).

53. The action of the BOP in denying the Petitioner eligibility for consideration for transfer to a CCC for service of the last six months of his sentence is in violation of his statutory rights, secured by 18 USC §3621(b).

54. The action of the BOP in denying the Petitioner eligibility for consideration for transfer to a CCC for service of the last six months of his sentence is in violation of his right to due process of law, secured by the Due Process Clause of the Fifth Amendment.

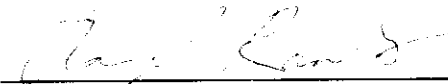
WHEREFORE, the Petitioner prays that this Court:

- a. declare that 18 U.S.C. §3624(b) requires that good conduct time be calculated at the statutory rate of 54 days per year, based on the length of the actual sentence imposed by the Court;
- b. declare that the Petitioner's potential good conduct time award based on the sentence imposed by the Court shall be 121 days;
- c. enjoin the Respondents from limiting the Petitioner's potential good conduct time award to 105 days;
- d. declare that 18 USC §3621(b) authorizes the Respondents to transfer the Petitioner to a Community Corrections Center for the service of more than the last 10% of the Petitioner's sentence; and
- e. enjoin the Respondents from limiting the Petitioner's eligibility for transfer to a Community Corrections Center to the last 10% of his sentence.

VERIFICATION

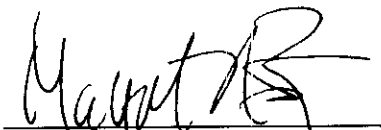
I, Aaron J. Rambo, hereby affirm on pain and penalty of perjury, that every fact stated herein is true to the best of my personal knowledge.

Date: 12-17-04


AARON J. RAMBO

AARON J. RAMBO
by his attorneys,

Date: 12/20/04


Matthew H. Feinberg
BBO #161380
Matthew A. Kamholtz
BBO #257290
FEINBERG & KAMHOLTZ
125 Summer St.
Boston, MA 02110
(617) 526-0700

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF MIDDLESEX
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

MATTHEW A. KAMOLITE
FEINBERG & KAMOLITE
125 SUMMER ST. BOSTON, 02110 617-26-0700

DEFENDANTS

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☒ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify) _____
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7809	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 610 Selective Service <input type="checkbox"/> 650 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input checked="" type="checkbox"/> HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

28 USC § 2241: Computation of Good Conduct Time & eligibility for release to Community Corrections Center.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$ _____

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY

JUDGE _____

DOCKET NUMBER _____

DATE 12/21/04 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) II: AARON RAMBO
A: DAVID WINN
2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).
- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases.
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ✓ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

04012669 EFH

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.
4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT? YES ☐ NO ☒
5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403) YES ☐ NO ☒
- IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY? YES ☐ NO ☐
6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284? YES ☐ NO ☒
7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)). YES ☒ NO ☐
- A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE? EASTERN DIVISION ☒ CENTRAL DIVISION ☐ WESTERN DIVISION ☐
- B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE? EASTERN DIVISION ☐ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME

ADDRESS

TELEPHONE NO.

MATTHEW A. KAMMOLITZ

125 SUMMER ST. BOSTON, 02110

617-526-0700